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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,379	12/28/2000	Norbert Lenz	DE919990092-US1	1510

7590 01/13/2005
Anne V. Dougherty
3173 Cedar Road
Yorktown Heights, NY 10598

EXAMINER

PATEL, NIKETA I

ART UNIT PAPER NUMBER

2182

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,379

Applicant(s)

LENZ ET AL.

Examiner

Niketa I. Patel

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Fiszman et al. U.S. Patent Number: 6,115,646 (hereinafter referred to as "*Fiszman*") and further in view of Bruno et al. U.S. Patent Number: 6,434,631 (hereinafter referred to as "*Bruno*".)

3. **Referring to claims 1, 6, 7, 8, 9, *Fiszman*** teaches a method, a system and a program storage device for supporting automated management of supporter-owned resources in a system having at least one repository and a resource managing program means, comprising the steps of [see column 3 - lines 1-30; figure 4 - element 1-7]: a repository comprising requests and request attributes wherein each request defines an action to be performed, or a desired state to be achieved, the state being associated with a respective one of said resources [see column 5

Art Unit: 2182

- lines 35-67; column 6 - lines 1-3; figure 3 - element 82]; accessing requests by a request scheduler and reorganizing said requests into a chain of requests based on said request attributes [see column 9 - lines 9-26; figure 4 - element 'Scheduler']; and invoking resource managing program means for handling the chain of said requests [see column 9 - lines 23-39.] *Fiszman* does not set forth the limitation of placing all requests in a repository however, *Bruno* teaches the limitation of storing (placing) requests in to a queue (repository) before a scheduler processes the requests [see *Bruno* column 2, lines 42-64] in order to provide a fair queuing scheduling algorithm that considers the estimated time required to service the request at the head of a queue with regard for the size of the input or output associated with the request.

One of ordinary skill in the art at the time of applicant's invention would have clearly recognized that it is quite advantageous for *Fiszman* to be able to store incoming request into a repository before the scheduler accesses them in order to provide a fair queuing scheduling algorithm that considers the estimated time required to service the request at the head of a queue with regard for the size of the input or output associated with the request. It is for this reason that one of ordinary skill in the art would have been motivated to place all request

Art Unit: 2182

into a repository to provide a user with a fair queuing scheduling algorithm.

4. **Referring to claims 2 and 10**, teachings of *Fiszman* as modified above by the teachings of *Bruno* teaches said requests define desired states of operating system maintained resources, wherein the method further comprises the step of invoking supporter program means for ensuring that said resources are set according to said requests [see column 9 - lines 9-50.]

5. **Referring to claims 3 and 11**, teachings of *Fiszman* as modified above by the teachings of *Bruno* teaches further comprising the step of using a standardized interface for said invocation of supporter programs [see column 7 - lines 33-36, 49-64.]

6. **Referring to claims 4 and 12**, teachings of *Fiszman* as modified above by the teachings of *Bruno* teaches further comprising at least one of the steps of: checking for inconsistencies caused by one or more requests, generating one or more new requests as a child request of an already existing request, simulating the execution of said requests, executing updates of resources and generating special requests for activation, making updates known to the operating system, and reversing updates done before [see column 8 - lines 47-65; column 9 - lines 40-44.]

Art Unit: 2182

7. Referring to claims 5 and 13, teachings of *Fiszman* as modified above by the teachings of *Bruno* teaches further comprising the step of generating a user-readable protocol in which effects of execution of one of said steps according to the preceding claim are logged with respective settings of said resources [see column 9 - lines 58-63.]

Response to Arguments

8. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

Art Unit: 2182

is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niketa I. Patel whose telephone number is (571) 272 4156. The examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571) 272 4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2182

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP
01/02/2005


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